(47)

GOVERNMENT OF MADRAS.

Old Sects. II-28, New Sects. II-16—71,006—28-1-55.

P.W. (1955) Department.

~~Endorsement~~
~~D.O.~~
~~Memorandum~~
~~Lodged~~

No. 54484 F/54-5

Dated 16-4-1955.

FURTHER PAPERS.

Department.	Number.	Series.	Date.

Subject.

Lease - (South Kanara) Mangalore Port - Lands lying within port limits - North reclamation area - Plot measuring 1870 sq.ft. Leased out to Sri P.Narayan Vaijappa Bhandari contravention of the condition of the lease deed.

--

Station: Madras. Ref.B.2379/54. Dated 7-6-54.

From

Sri W.R.S.Sattianathan, I.C.S., Commr.of Land Revenue.
Sri P.Sivasankaran Pillai, I.A.S., Secretary.

--

Read: From the Collr.of Roc.14099/53 dt.10-3-54.

--

Reference:-

Submitted to the Government.

2. In the circumstances reported by the Collector, the Board recommends that the breach of condition 2 (6) of the lease deed, by the lessee by under letting a portion of the building to Laximi Motor Co., may be condoned and the lease need not be cancelled as the Laximi Transport Co., has since vacated the building

for Secretary.12.6.54

To The Secretary to Government, Revenue Department 'with enclosure

Copy to the Collector of South Kanara.

DL::11-6.

Copy of Roc.14099/53-B2 dt.10-3-54 from the Collr.of South Kanara.

--

Read: Board's Ref.B.4979/53-2, dt.24-6-53.

--

A plot of land measuring 1870 sq.ft. in North Reclamation area within Mangalore Port limits (T.S.No.642 of casba bazaar village) was leased out for a period of 25 years from 15-1-40 in favour of Sri P.Narayana Vaijappa Bhandary, Merchant at Mangalore for the purpose of constructing a ware-house in this office R.Dis.2212/1940 dt.10-7-40. The Port Officer, Mangalore pointed out to me that lessee sublet a portion of the building on the leased plot and thus contravened condition 2(6) of the lease deed. In the first instance he requested to give my opinion whether he could canc l the lease deed but subsequently however he requested me to cancel the lease deed as the lease deed was executed by the Collector. Condition 2(6) of the lease deed prohibits assignment, or underletting or parting with the possession of the demise premises or any part thereof.

2.As required by condition 4(a) of the lease deed a notice of the intention to terminate the lease deed was issued. In reply to the notice, the partner of the firm says that a room of the building was sublet not knowing the specific condition in the lease deed and it was to give a temporary shelter to a Transport company. The sub-letting has therefore been admitted. It is revealed during the enquiry that Messrs Laxmi Transport Co., who had an office near the leassee's building had to leave the premises suddenly and they could no find any other building just at that time. The Port Officer, Mangalore has since reported that Messrs Laxmi Transport Co., has vacated the building. The breach is not therefore a continuing one. The lessee states that the building on the plot is worth about Rs.30,000/- and it will be a great hardship if the lease is terminated at this stage.

3. 2. As revealed by the enquiry held by the Revenue Divisional Officer, a portion of the building was sublet just to accommodate one, in dire necessity of accommodation and I do not therefore think that this good neighbourly obligation calls for such a drastic action as the termination of a long term lease of 25 years which has still a life of 12 years more. In this connection, I invite attention to my report Roc.19215/52 dt.8-3-54. In the circumstances stated by me in that report I am not sure whether I am competent to condone the breach of condition in this case. I therefore submit the case for the orders of the Govt. and recommend that the breach may be condoned.

4. The following records are enclosed.

(A) ---(a) Records of enquiry (pages 1 to 30).
(My) —(b) R.Dis.2212/1940.

-true copy-

12.6.54
for Secretary.

DL::11-6.

12.6.54

Pl. wmo
ST
17/6/54

A.Sh
17/6

Rev. Dept.

Memo No. 42461 A/54-1 dated 16.6.54

Lease - (S. Kanara) - Mangalore Port - North reclamation area - Plot measuring 1870 sq. ft - Leased out to Sri P. Narayan Vaijappa Bhandari - Contravention of the condition of the lease deed.

Ref:- From the Bd. of Rev. B. 2379/54 dated 7-6-54.

The records mentioned in para 4 of S. Kanara Collector's Lr. No. Rev 14099/53-B2 dated 10-3-54 have not been received with the Board's reference cited. The Bd. of Rev. is requested to send them urgently.

SS
15/6/54

The Bd. of Rev (LR)

Note:-
P.T.O

2/4

To A.S.

The records mentioned in para 4 of p 2 of C. have not been received. They are necessary to understand the Collector's letter of p 1-2 of C. Hence this Memo of p Land which may be approved.

Q

16/4

26.4

A1 5

REVENUE DEPARTMENT,

Subject;
LEASE--(South Kanara)--Mangalore Port--North reclamation area Plot measuring 1870 sq.ft.--Leased out to Sri P. Narayan Vaijappa Bhandari--Contravention of the condition of the lease deed.

****

Madras. Ref.B..2379/54-4. Dated 22-6-1954.

Sri T.N.S.Raghavan,I.C.S.,Commissioner of Land Revenue.
Sri P. Sivasankaran Pillai, I.A.S.,Secretary,Board of Revenue.

Read: Government Memo.No.42461 A/54-1,Revenue, dated 16-6-54.

REFERENCE:

The following records are submitted to Government:-

(1) Records of enquiry (pages 1 to 30) — (A)

(2) R.Dis. 2212/1940. (M)

1912

for Secretary.

To the Secretary to Government,Revenue Department, Madras.
(With encls.)

nedr.22-6.

6

F

To GS.

Rev Dept

Pages 1-5 above may be perused

2/ The land [illegible] within the Mangalore Port limits leased out under the provisions of Act No. 6 of 1890. but within the orders in Go. MS No. 241 P.W.A. dt 3.2.40. This may therefore be transferred to Rev. Dept. for further action.

Note of Asst Secy (M)

7.7.54

8/7/54

P.W.D (FI)

54484

Please see the reference from the Board of Rev. on plants. A similar question is under examination in the top file — also relating to Mangalore Port — This

Rev (Genl) 4246/A/54-1

8.7.54

PUBLIC WORKS Dept.

55661/F/54.

file — may be one till a decision is taken on the general question raised in that file – (whether further action in such matters should be taken by Govt. or by the Port Trust Board.)

DMS
31/7/54
3.8.54

M
4.8.04

Please see this Deptt. note from the bottom of page ante. It is proposed to call for certain additional particulars in the case referred to therein. But on closer examination it would appear that a disposal on the question dealt with in this file need not await a final decision in the other file. The matter in this file may be dealt with separately. In this view a draft memo. to the Collector calling for certain particulars is submitted below for consideration.

F. No 5566/F/54
(Ind. separately)

DMS
28/9/54

M
30.9.54

30.9.54

9 P.W.D(F.)

46/1.10

Memo.No. 54484F/54-1 dt. 30-9-54.

Lease - Mangalore port - Lands lying within port limits in north Reclamation area - Plot leased out to Sri. P. Narayan Vaijappa Bhandari - Contravention of condition of lease deed.

pp 1-2 cf

From The collector of South Kanara letter No. ROC.14099/53-B2 dt 10.3.54.

T.pp 4 cf

From The Board of Rev No B.2379/54 dt 7.6.54.

The collector of South Kanara is requested to state the period for which the Laxmi Transport Co., was in occupation of the portion referred to. He is also requested to state whether in view of the fact that the

10

lessee Sri. P. Narayana Vaigappa Bhandary has made a profit by the above subletting. A portion of the profit that he has made should not be recovered from him as penalty, under Rule 20. He is requested to indicate what portion of the profit should be recovered. The Collector of South Kanara is requested to submit his report through the Bd of Rev.

Dms
28/9/54

30.9.54

30.9.54

To the Collector of South Kanara.

To the Bd of Rev.

5/10.

Ref.B2.14099-53. 54484/54 S.Kanara Collector's office,
Mangalore dated 22.10.54.

From 82825 To

Sri V.Seetharama Servai,B.A.
Collector of South Kanara.

The Secretary to Government
Public Works Department
Fort St. George Madras 9.

ASST. SECRETARY TO GOVERNMENT
27 OCT 1954
PUBLIC WORKS DEPARTMENT

Sir,

LEASE--Mangalore Port--Lands lying within Port limits in North Reclamation area--Plot leased out to Sri P.Narayana Vaijappa Bhandary--Contravention of condition of lease deed-Report called-- Interim report submitted.

--

Ref: Government Memo No.54484-F.54.1 dated 30.9.54 received on 11.10.54.

--

I have not received the report from the Tahsildar Mangalore and the Revenue Divisional Officer Coondapur and so I could not subm my report. I shall submit the same by the end of the first week of November 1954.

PWD (W-I)

Yours faithfully,

ATR. Hill 27.11.54.

28-10-54

28.10.54.
For Collector

54484/54 13

Ref.B2.14099/54

S.Kanara Collector's Office,
Mangalore dated 6-11-1954.

87294

ASST. SECRETARY TO GOVERNMENT
12 NOV 1954
PUBLIC WORKS DEPARTMENT

From
Sri M.G. Raja Ram, I.A.S.
Collector of South Kanara.

To
The Secretary to Government,
P.W. Department, Fort St. George,
MADRAS.

Sir,

LEASE - Mangalore Port - Lands lying within Port limits in North Reclamation area - Plot leased out to Sri P. Narayana Vaijappa Bhandary - Contravention of condition of lease deed - Report called - II Interim report - Submitted.

Ref: 1. Government Memo No. 54484-F-54-1 dated 30-9-54 received on 11-10-54
2. Interim report Ref.B2. 14099/53 dated 22-10-54.

In continuation of the interim report cited, I have to report that the Rev. Divisional Officer, Coondapur, from whom a report was called for, wanted certain records for examining the matter before submitting his report. I have sent the same to him. I shall submit my report as soon as his report is received.

Yours faithfully,

9--11--54
For Collector.

PWD(F)
AR. 14/15-12-54
15.11.54
14/11/54
14.11.54

Copy to the Secretary to the Board of Revenue, Land Revenue, Chepauk, Madras.

E.R.8.11.

ASST. SECY TO GOVT. PUBLIC WORKS DEPARTMENT
10 DEC 1954

B2.14099/53

95298

S.Kanara Collector's Office
Mangalore, dated 8--12--54

From

Sri A.Kunhamed,B.A.,
Collector of South Kanara,
Mangalore.

To

The Secretary to Government, P.W.D.
Fort St.George, Madras,9.

Sir,

LEASE--South Kanara District--Mangalore Port--Lands lying within Port Limits in North reclamation Area-Plot leased out to Sri P.Narayana Vaijappa Bhandary-Contravention of condition of lease deed-Report-Submitted.

----oo----

Ref: Govt.Memo No.54484/F.54.1. dated 30.9.54.

--oo--

I have to-day submitted my report through the Board of Revenue in my Ref.B2.14099/53 dated 8.12.54.

PWD (F1)

Yours faithfully,

8.12.54.

For Collector.

Filed.
The Bds report may be awaited till 15.1.55.

14.12.54

8/12/54

14.12.54

PKI.8.12.

8/12/54

ASSISTANT TO GOVERNMENT
27 DEC 1954
PUBLIC WORKS DEPARTMENT

99529

REVENUE DERARTMENT.

Subject:

[illegible] (South Kanara) Mangalore Port limits - North Reclamation area - Plot leased out to Sri P. Narayana Vaijappa Bhandary - contravention of conditions of lease deed - condonation - proposals submitted.

Ref.B.2379/54-8 Station: Madras. Dated 21-12-54.

From

Sri M.V. Subramaniam, ICS., Commissioner of Land Revenue, Civil Supplies and Settlement.

Sri P. Sivasankaran Pillai, I.A.S., Secretary, Bd.of Revenue

...

Read:-Government Memo No.54484 F/54-1 P.W.D dated 30-9-54.
From the Collector of S.Kanara Ref.B.2.14099/53 dated 8-12-54.

...

REFERENCE:

Submitted to the Government.

2. The Board supports the Collector's proposal.

for Secretary.

To

The Secretary to Government, Public Works Department with a copy of Collector's letter and enclosure.

P.G/22/12.

Ref.B2.14099-53.

S.Kanara Collector's office,
Mangalore dated 8.12.54.

17

From

Sri A.Kunhamed,P.A.
Collector of South Kanara.

To

The Secretary to Government,
Public Works Department,
Fort St. George Madras 9
Through
The Secretary to the Board of Revenue,
Land Revenue,Chepauk,Madras 5
(In duplicate)

OFFICE OF THE BOARD OF REVENUE
11 DEC 1954
MADRAS

LEASE--South Kanara district--Mangalore Port Lands lying within port limits in North reclamation area--Plot leased out to Sri P.Narayana Vaijappa Bhandary--Contravention of condition of lease deed--Report submitted.

Ref: 1. Government-Memo No.54486-F-54-1.dated 30.9.54.
2.Board's Ref.B2.2379/54 dated 15.10.54.

The lessee in this case is reported to have died in 1945. His son Sri P.Pundalik Bhandary is now reported to be the defacto Manager of the estates of the deceased lessee. The Laxmi Transport Co, was in possession of the portion of the plot from 6.10.1951 to 15.9.53. A portion of the godown constructed by the lessee on this plot was rented out to the Laxmi Transport Company on a rental of Rs.125/- per month. The total income derived by the lessee on account of the sub letting of the portion of the godown worked out to Rs.2917/- Sri Pundalik Bhandary in his statement* before the Revenue Inspector Mangalore has expressed his willingness to pay some penalty if he is not allowed with a warning. A copy of his statement is enclosed for perusal. The imposition of penalty will not in any manner cause hardship to him.Of the total income of Rs.2917/- derived by Sri P.Pundalik Bhandary a sum of Rs.250/- being two months rent for repairs and other charges and a sum of Rs.225/- being the ground rent and the cess chargeable for two years for the portion sublet may be deducted, and the net profit made by subletting the portion of the plot may be fixed at Rs.2442/- This amount may be recovered as penalty.

2. The Government Pleader Mangalore who was consulted in the matter gave the opinion that the income derived in this case cannot be recovered unless the lease is determined. A copy of the Government Pleader's opinion* is enclosed for favour of perusal in this connection.

3. I, therefore, suggest that a notice may be issued to Sri P. Pundalik Bhandary son of the deceased lessee to directing him to pay a sum of Rs.2442/- as penalty as it was derived by the

lessee by subletting the portion of the lease plot and that he may be told that if he fails to pay the aforesaid sum within a stipulated period steps would be taken to determine the lease.

Yours faithfully,

9-12-54
For Collector

Enc. Copy of statement dated 27-10-54 of Sri P. Pundalik Bhandary p21 orig

2. Copy of Ref.No. 1137 B dated 5-1-54 of the Govt. Pleader, Mangalore p23 orig

E.R.9.12.

Statement of Sri P.Punnalik Bhandary, son of late P.Narayana Vaidya Bhandary, Merchant, Bunder, Mangalore recorded by the Revenue Inspector, Mangalore (R) on 27.10.1954.

Heard the contents of Taluk Ref.Dis.1145/54 dated 25.10.1954. I am the eldest son of late P.Narayana Vaidya Bhandary. My brother P.Dinanath Bhandary died on 3.6.1951. We are the only two sons of late Sri P.Narayana Vaidya Bhandary. Consequent to the demise of my brother, I am managing the property of my late father. My late father has executed a lease-deed on 27.5.1940 in respect of Mangalore North Reclamation area measuring 1670.sq.ft. a portion of T.S.No.642 of Kasba Bunder village, in Bunder, Mangalore. A ware-house was constructed in this area and subsequently, small portion of this building was rented to Laxmi Transport Co, on a monthly rent of Rs.145/- on a temporary basis. I did not know that any portion of the ware-house should not be rented out. When I came to know of the conditions of the lease-deed after getting a notice from the Port Officer, Mangalore, immediately I arranged to evict the office of the Laxmi Transport Co., and accordingly the said company vacated the portion of the ware-house, occupied by it. However, the sub-letting of the portion to the Laxmi Transport Co., was done without knowing the conditions of the lease-deed. Hence I request that my action in having rented out the portion as mentioned may kindly be condoned. In case, I am compelled to pay any penalty, I request that some reasonable amount may be levied in this case. I am prepared to pay such penalty, if I am not allowed with drawing. The Laxmi Transport Co., was in occupation of the portion of the warehouse from 6.10.1951 to 1-1953 during which it was paid the rent of Rs.145/- per month. Prior to the death of my brother P.Dinanath Bhandary, he himself was managing our business and looking after our property.

(Sd) . Punnalik Bhandary

Read over to the deponent and admitted by him to be correct.

(Sd.) x x 27.10.54.
R.I.Mangalore(R)

(True copy)

Copy of No. 1137/53 dated 5th January 1954 from the Government Pleader, Mangalore to the Collector of S.Kanara

--

Sub: Grant - Land - Within Mangaloré Port Limits - North Reclamation area - Plot measuring 1870 sq. ft. leased to Sri P. Narayana Vaijappa Bhandary - Sub-letting - Contravention of the conditions of the lease deed - Recovery of the income - Opinion - given - Papers returned Your letter Ref.B2. 14099/53 dated 29-11-53

--

The question in this case is whether the income derived by the lessee by sub-letting the building, can be recovered from the lessee. The income derived cannot be recovered unless the lease is determined for violation of the condition 2(6) of the lease deed. If the lease is determined and if a suit is filed for getting possession of the premises leased out, then in that suit mesne profits derived by the lessee can be asked Unless the lease is determined and a suit for the possession is filed, a suit merely for mesne profits will not lie.

Mesne = Middle or intermediate

From the file I am more or less inclined to think that the Department is not contemplating to determine the lease, and so, the question of recovering the mesne profits need not be pressed.

The file sent to me is returned herewith. Please acknowledge receipt of the same.

--

/True Copy/

9.12.54

For Collector

E.R.9.12.

BY REGISTERED POST.

P.W.D.(F-1).

Memo. No.54484--F/54-5 dated 16.4.55

SUB: PORT TRUST - Mangalore - Lands lying within port limits in North Reclamation Area - Plot leased out to Sri P. Narayana Vaijappa Bhandary - Contravention of condition of lease deed.

REF: From the Collr. of South Kanara, letter No.Roc.14099/53-B2, dated 10.3.54.
From the Board of Revenue No.B. 2379/54, d/ 7.6.54.
To the Collr. of S.K. Memo. No. 54484-F/54-1, d/ 30-9-54.
From the Collr. of South Kanara letter No.B2.14099/53, d/8.12.54.
From the Board of Rev. No.B.2379/ 54-8, dated 8.12.54.

--

Copies of the references cited together with the record of enquiry in original are forwarded herewith to the Chairman, Mangalore Port Trust, for such action as is considered necessary in the matter, as under the Mangalore Port Trust Act, 1953, all the property which originally vested in the Mangalore Port Conservancy Board, now vest in the Mangalore Port Trust Board. He is however informed in this connection that as pointed out by the Govt. Pleader, Mangalore, there is no provision in the lease deed enabling the lessor or their successors to claim any income derived by the lessee by way of rent; that as the lessee has violated the condition 2(b) of the lease deed, the lessor or their successors have only a right to terminate the lease; and that if by violating a condition of the lease, the lessors have been put to any actua loss, or if it is considered that steps should be taken to make the lessee

p.t.o.

surrender the profit derived by letting out the portion of the leased land, resort should have to be made to a Court of Law.

2. The Chairman, Mangalore Port Trust is requested to acknowledge the receipt of the papers sent herewith.

16.4.55

15/4/55

16/4/55

16/4/55

R'on 19.4.55

CENTRAL DESPATCH BRANCH

Despatched

and items only

Date 21/4 1955. Despatched

By Regd. Post.

To

The Chairman, Mangalore P.T., Mangalore (with encls.).

(1) copies of

(i) 'S' on pp. 1-2 c.f.
(ii) 'M' on p. 1 c.f.
(iii) pp. 9-10 c.f.
(iv) pp. 19-23 c.f.
~~and~~ (v) p. 17 c.f.

and (2) Record of enquiry at (A) in original.

Copy to the Board of Revenue.

By Regd. Post.

(M) Copy to the Collr. of South Kanara with his R.Dis. No.2212/1940, d/10.7.40. in original. He is requested to acknowledge its receipt.

CENTRAL DESPATCH BRANCH

and items 2 and 3 only

Date 19/4/1955

S.Dis.11922-55. S.Kanara Collector's office,
Mangalore dated 25.4.55.

From

Shri A.Umapathi, I.A.S.,
Collector of South Kanara.

The Secretary to Government
Public Works Department,
Madras.

Sir,

Sub: Port Trust--Mangalore--Lands lying within port limits
--Reclamation area--Plot leased out to Sri K.Narayana
Kudupa Shaddary--Conservation of condition of lease deed.

Ref: Government Memo No.54[illegible]/55-5 I.D. dated 16.4.55

The records of this office S.Dis.2813/40 have been received here.

Yours faithfully,

for Collector.

PWD (Fin)

Filed.

MC/25.4.55.

30/4/55

2.5.55

2.5.55

ASST. SECRETARY TO GOVT. PUBLIC WORKS DEPARTMENT 28 APR 1955

34665

29

4/4/26

P.W.D.(F.H.

Memo No. 54484 F/54-6 dt. 27.5.5

Sub: Port Trust - Mangalore - Land lying within port limits in North Reclamation Area - Plot leased out to Sri P. Narayana Vaijappa Bhandary - Contravention of condition of lease deed.

-- The Chairman, Mangalore Port Trust is requested to acknowledge the receipt of the papers sent above

30

with this department memo
No. 54484 - F/54-5 dt. 16.4.55 for 25-2 cf. To

26/5

22.5.55

26/5/55

25/5/55

The Chairman,
Mangalore Port Trust,
Mangalore

31/ PWD(Fi

5/2.6.

Memo. No. 54484 F/54-7. of 21-6-55.

Port Trusts — Mangalore — Lands lying within port limits — in North Reclamation Area - Plot leased to Sri. P. Narayana Vaijappa Bhandary - contravention of condition of lease deed.

---

pp 25-26 cf | Memo. No. 54484 F/54.5 of 16.4.55.

pp 27-30 cf | " " 54484 F/54.6 of 27.5.55

The Chairman, Mangalore Port Trust is requested to acknowledge the receipt of the papers sent with the form.

~~memo. from cited above~~ P.T.O.

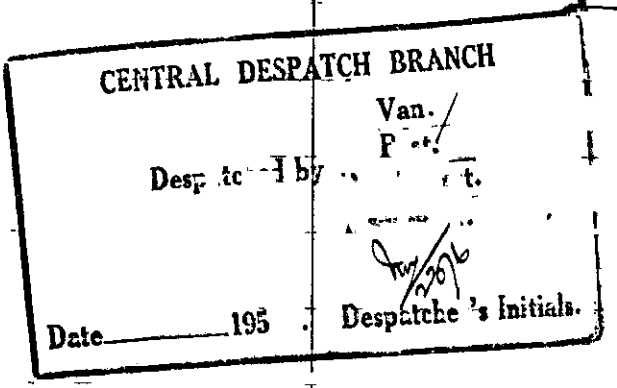
2L
C3 2

memo. this cited above. * pprs- 26 c/f

2nd
9/6/55
to
Sm CL

M
20.6.55

To The Chairman,
Mangalore Port-Trust,
Mangalore.



No.582/55.-1

PORT TRUST OFFICE,
MANGALORE. 1.
D/28th June, 1955.

33

ASST. SECRETARY TO GOVERNMENT
55282
30 JUN 1955

From

The Chairman,
Port Trust,
Mangalore.

To

The Secretary to Govt.,
Public Works Dept.,
Madras.

Sir,

Sub: Port Trust Mangalore Lands lying at the Port limits in the North Reclamation area plot leased to Sri P.Narayana Vijappa Bhandary contravention of condition of lease deed -

Ref: Government Memorandum No.54484/F/54.5 d/16.4.55.

PP 25-26 case

I have received the above reference and the enclosures referred to therein.

R Giffardas 28/6

For CHAIRMAN.

PWD (Fi)

The file may now be closed.

Dnd 1/7/55

M 1.7.55

G 1.7.55

Ref memo No. 54484 F/54.5 dt 16-4-55

C.No.54484-F/54.

Port Trust - Mangalore - Lands lying within port limits in North Reclamation Area - Plot leased out to Sri P. Narayana Vaijappa Bhandary- Contravention of condition of lease deed

---

From the Collector of South Kanara, letter No.Roc.14099/53.B2 dated 10-3-1954.
From the Board of Revenue No.B.2379/54 dated 7-6-1954.
To the Collector of South Kanara Memo No.54484 F/54-1 dated 30-9-54.
From the Collector of South Kanara Letter No.B.2.14099/53 dated 8-12-54.
From the Board of Revenue, No.B. 2379/54-8 dated 21-12-1954.

...

This file relates to the breach of one of the conditions of the lease deed executed for the lease of a plot of land in the North Reclamation area in the port of Mangalore.

2. A plot of land measuring 1870 square feet in North Reclamation area within the limits of the Mangalore port was leased out for a period of 25 years from 15-1-1940 in favour of Sri P. Narayana Vaijappa Bhandary, Merchant at Mangalore, for the purpose of constructing a ware house. The ground rent payable for the land is Rs 114 per annum. Condition 2(6) of the lease deed prohibits assignment or underletting or parting with the possession of the demised premises or any part thereof.

3. Early in 1953 a breach of this condition was detected, a portion of the building constructed by the lessee having been sublet to a transport company on a monthly rental of Rs 125/-. The Collector of South Kanara after issuing necessary notice to the Lessee and getting his reply, originally reported that a portion of the building was sublet to accommodate one in dire necessity of accommodation and that he did not think that this neighbourly

obligation called for a drastic action as the termination of a long lease of 25 years which has still a life of 12 years. He reported that the Transport Company has since vacated the building and recommended that the breach may be condoned. The Board of Revenue supported the recommendations of the Collector.

4. In reply to a reference from Government whether in view of the fact that the lessee has made a profit by the above subletting, a portion of the profit that he has made should not be recovered from him as penalty, the Collector has now stated —

(i) that the Laxmi Transport Co., was in occupation of the portion of the building during the period from 6-10-1951 to 15-9-1953;

(ii) that the Transport Co. was paying a rent of Rs 125/- p.m;

(iii) that the total income derived by the lessee on account of the subletting worked out to Rs 2917;

(iv) that from the total income of Rs 2917/- derived by the lessee, a sum of Rs 475/- may be deducted towards repairs, etc. and the balance of Rs 2442/- may be recovered from him as penalty;

(v) that the lessee has expressed his willingness to pay some penalty if he is not allowed with a warning; and

(vi) that the imposition of a penalty will not in any manner cause hardship to him.

He has suggested that as the Government Pleader, Mangalore, who was consulted in the matter has given the opinion that the income derived in this case cannot be recovered unless the lease is determined, a notice may be issued to Sri P. Pundalik Bhandary, son of the deceased

(5454 F/54)

A1

lessee, directing him to pay a sum of Rs.2,442/-as penalty and that he may be told that if he fails to pay the aforesaid sum within a stipulated period steps would be taken to determine the lease. The Board of Revenue has supported the above proposal of the Collector.

5. From the above it would be clear that the lessee has violated one of the conditions of the lease deed in subletting a portion of the building constructed by him and that by so doing he has made a net profit of about Rs.2,442/-. The point for consideration is whether the entire sum of Rs.2,442/- should be recovered from the lessee as penalty as recommended by the Collector and the Board of Revenue or whether only a token sum should be so recovered. It is also for consideration whether a notice may be caused to be issued to the lessee directing him to pay a penalty and informing him that if he fails to pay the aforesaid sum within a stipulated period steps would be taken to determine the lease.

6. It may be mentioned in this connection tha with the coming into force of the Mangalore Port Trust Act, 1953, all the property vested in the Mangalore Port Conservancy Board now vest in the Mangalore Port Trust Board. Hence any further action to be taken in the matter, it would appear, has to be taken by the Port Trust Board, and that the Government can only advise the Board in the matter. It is therefore for consideration whether the decision to be taken on para 5 above may be communicated to the Chairman, Mangalore Port Trust Board, for consideration.

7. Revenue and Law Departments may see for remarks.

B

PWD U.O. 5454 84-F/54-2

25 FEB 1955 1834 A

17/2/55.

18.2.55

The matter may perhaps be left to the P.T. Board, since Come into being

18.2.55 22/2/55 Law Law.

Revenue Department.

To A.S.

The note of P.W. from p.1 above may be perused.

2. The Collector of S.Kanara has stated that the imposition of penalty will not in any way cause hardship to the lessee. He has therefore suggested that a notice may be issued to Sri P.Pundalik Bhandary, son of the deceased lessee, directing him to pay a sum of Rs.2,442/- as penalty and that he may be told that if he fails to pay the aforesaid sum within a stipulated period, steps would be taken to determine the lease. The Board of Rev. has supported the proposal of the Collector. In view of 'A' above, this Dept. may perhaps suggest that the entire sum of Rs.2,442/- might be recovered from the lessee as penalty as recommended by the Collector and the Bd. of Revenue and that the Chairman, Mangalore Port Trust Board informed of the position. With the above remarks, the file may be passed on to Law. P.W. may be requested to let Finance also see the case.

A K on p 19 c/f

para 3 pp. 11-20 c/f

~ p. 17 c/f

Is it 2442 or

~ p. 17 c/f

A B & BB ~ p. ?

Since corrected as Rs. 2,442/- vide K on p. 19 c/f

The omission to enter the correct figure of Rs 2442/- is explained and regretted.

Not convinced but Leave it to Law to care of the typist's mistake with a view to checking errors

Noted, Sir

Rev no MS 18342 A/55-

LAW DEPARTMENT.

As pointed out by the Government Pleader, Mangalore at p.23 c.f. there is no provision in the lease deed at pp.5-11 of (A) enabling the lessor or their successors to claim any income derived by the lessee by way of rent. The lessee has violated condition 2(6) of the lease deed and the lessor or their successors have only a right to terminate the lease. However, if by violating a condition

ASSISTANT SECRETARY 4 MAR 1955 3203 LAW DEPARTMENT, MADRAS

of the lease, the ~~lessee~~ lessors have been put to any actual loss or if it is considered that steps should be taken to make the lessee xxx surrender the profit derived by letting out the portion of the leased land, resort will have to be made to a Court of Law. As the property now vests in the Mangalore Port Trust Board, the matter may be left to the Port authorities to take such action as they consider necessary.

8/3/55

M 9.3.55

D-5

P pur 'D.

19501

ASST. SECRETARY TO GOVERNMENT 9-MAR 1955 LAW DEPARTMENT

Law U.O. 3203/55-1
8.3.55.

Finance may now see the case as suggested by Revenue. Revenue may also see the case again.

M 14.3.55 Fin/Rev.

PWD U.O.No. 5246 R&F/54-3 (14.3.55)

PWD 9/3/55

Fin 9.3.55

ASSISTANT 16 MAR 1955 21538

Fin. (Accts.)

May be perused.

RL 21.3.55 Rev

Revenue Dept

Fin 18.3.55

NR 21.3.55

To A.S.

FM. U.O. 21538 Acct/55 22/3/55

This Dept last saw on p. 4 ante. The subsequent notes of Law, P.W and Finance on pp. 4-5 above may be perused.

2764A

ASSISTANT SECRETARY TO GOVERNMENT 23-3-55 28 MAR 1955 REVENUE DEPARTMENT